



New Motor Vehicle Board

In-Site

April 2007

A Publication of the California New Motor Vehicle Board

07.2 Edition

BOARD HOLDS 6th INDUSTRY ROUNDTABLE

The Board hosted its 6th Annual Industry Roundtable on March 27, 2007, in Sacramento, California. The feedback from the Roundtable was that this was the best one yet! The Board Members and staff appreciate all who participated in the event as well as the speakers that presented the various topics. The 2008 Roundtable will tentatively be held in Indian Wells in April. Once the date is confirmed, details will follow.

The Industry Roundtable has evolved over the years. The first event in 2001 was a two-hour program with eight manufacturer participants. In 2007, we had 14 manufacturer participants including 11 automobile, two motorcycles, and one recreational vehicle for a seven-hour event. The manufacturers included: American Honda Motor Co., Inc.; American Suzuki Motor Corporation; BMW of North America, LLC; DaimlerChrysler Motors Company, LLC; Ford Motor Company; General Motors Corporation; Harley-Davidson Motor Company; Hyundai Motor America; Kia Motors America, Inc.; Mercedes-Benz USA, LLC; National RV Holdings, Inc.; Nissan North America, Inc.; Toyota Motor Sales U.S.A., Inc.; and Yamaha Motor Corporation, U.S.A. The total number of attendees reached almost 100.

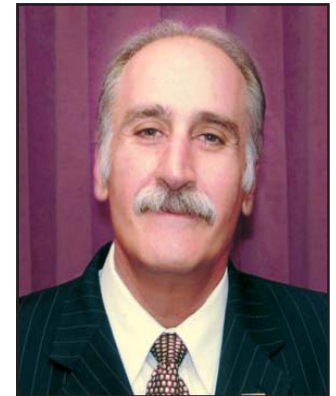
The first topic concerned the Department of Motor Vehicles. We were honored that George Valverde, Director of the Department of Motor Vehicles welcomed our attendees. Lynn Hidley, Deputy Director of the Registration Operations Division discussed DMV's Business Partner Automation Program and other technology solutions for processing DMV paperwork. Rick Vargas, Chief of the Real ID Project Office discussed the impact of the Federal Real ID Act on the auto industry.

The second topic was a spirited discussion concerning the automotive industry's response to statements

See Roundtable, Page 2



Ramon Alvarez



Haig Papaian

NEW BOARD MEMBERS

The New Motor Vehicle Board welcomes its newest Board member, Ramon Alvarez. He founded the Alvarez Lincoln Mercury dealership at the Riverside Auto Center in October 1995 and added the prestigious name of Jaguar in October 2001. He is also the first Hispanic to own a Jaguar dealership in California. Mr. Alvarez is widely recognized as one of the leading Hispanic entrepreneurs in the Inland Empire.

Mr. Alvarez is a member of the board of directors of the California Chamber of Commerce and has served on the boards of the Greater Riverside Chamber of Commerce, Riverside Hispanic Chamber of Commerce (past president), Inland Empire Economic Partnership, Riverside Community Hospital, YMCA, March of Dimes and Professional Golfers Association (PGA) Advisory Committee. Mr. Alvarez is a commissioner for the Access to Justice Commission in California, and was executive director of the local chapter of the Boy Scouts of America. He has also been a member of the Riverside Community College Foundation and the Raincross Club.

Mr. Alvarez has been recognized for his professional and community service, including the Riverside Hispanic

See New Members, page 3

Roundtable, cont'd from page 1

that there are too many dealers in the U.S. market. The panel consisted of dealer attorneys Michael J. Flanagan, Esq., Law Offices of Michael J. Flanagan, and Halbert Rasmussen, Esq., Manning, Leaver, Bruder & Berberich, and manufacturer attorneys Kevin Colton, Esq., Baker & Hostetler, LLP, and Allen S. Resnick, Esq., Jeffer, Mangels, Butler & Marmaro LLP.

After lunch, a brief update was provided by Jim Boyd, Commission of the California Energy Commission concerning alternative fuels and advanced propulsion systems available to the automotive industry.

The third topic concerned trends in hi-tech accessories. Ed Huzyak, Regional Aftersales Manager, for BMW of North America, LLC discussed the automobile industry. Bob Holmes, Dealer, Auburn Harley-Davidson Buell, discussed the motorcycle industry, and Rodney Bonner, Parts Director, Village RV, discussed the RV industry.

The fourth and final topic addressed how local cities and counties attract and retain dealerships, the economic impact of an automall, and the role redevelopment agencies play in establishing automalls. The speakers included Nanci Klein, Corporate Outreach Manager, Office of Economic Development, City of San

Jose; Michael Palombo, Economic Development Manager, City of Vacaville; Sean P. Quinn, Director of Community Development, City of Fairfield; and Iris Yang, Esq., Partner, McDonough, Holland & Allen, PC.

The Roundtable concluded with a Board litigation update from Robin Parker, Senior Staff Counsel, concerning the number of protests proceeding to merits hearings. Bill Brennan, Executive Director, discussed the upcoming New Motor Vehicle Board Attorney Roundtable tentatively scheduled for August 15, 2007, in Sacramento.

The Board members and staff would greatly appreciate it if the participants and attendees of the 6th Annual Industry Roundtable would complete the questionnaire concerning the event. We use this information to plan and enhance future Industry Roundtables. The questionnaire was sent by mail in mid-April and is also available on the Board's website home page at www.nmvp.ca.gov. Please contact Robin Parker with any questions at (916) 445-1888 or rparker@nmvp.ca.gov.



State of California

Arnold Schwarzenegger, Governor

IN-SITE

California New Motor Vehicle Board
1507 21st Street, Suite 330 Sacramento, California 95814
(916) 445-1888
email: nmvp@nmvp.ca.gov

Department of Motor Vehicles
George Valverde, Director

New Motor Vehicle Board

Officers

Alan J. Skobin,
President
Robert T. (Tom) Flesh,
Vice-President

Questions or comments:
nmvp@nmvp.ca.gov

Members

Ramon Alvarez
Robert Branzuela
Ryan L. Brooks
Robert T. (Tom) Flesh
David C. Lizárraga
Haig Papaian
Alan J. Skobin
Glenn E. Stevens
David W. Wilson



*Business, Transportation
and Housing Agency*
Dale E. Bonner
Secretary

Executive Director

William G. Brennan
bbrennan@nmvp.ca.gov
General Counsel
Howard Weinberg
hweinberg@nmvp.ca.gov
Senior Staff Counsel
Robin P. Parker
rparker@nmvp.ca.gov

New Members, cont'd from page 1

Business of the Year (1996), Greater Riverside Chamber of Commerce Business of the Year (1996), Ford Motor Company Society of Leasing Professional Dealer Award (1996) and Ernst & Young Outstanding Entrepreneur (1999). Mr. Alvarez was appointed by Governor Schwarzenegger and his term expires on January 15, 2010.

Haig Papaian, Jr., Public Member, was appointed to the New Motor Vehicle Board on March 30, 2007, by Governor Schwarzenegger. Mr. Papaian previously served on the Board from 2003 to January 15, 2007, and during that tenure served as a member of the Board Development Committee.

Mr. Papaian has been director for the California Commerce Club since 1997. He previously owned Haig's Disposal Company, a waste hauling and recycling business, from 1970 to 1997. Mr. Papaian is a member of the Los Angeles County Sheriff's Youth Foundation and the St. Francis Hospital Board of Trustees. Mr. Papaian currently resides in Manhattan Beach, Los Angeles County. His term will expire on January 15, 2010.

DALE E. BONNER APPOINTED SECRETARY OF BT&H

Governor Arnold Schwarzenegger announced on February 14, 2007, the appointment of Dale E. Bonner as the secretary of the Business, Transportation and Housing Agency (BT&H). BT&H oversees the activities of 13 departments consisting of more than 42,000 employees, a budget greater than \$11 billion, plus several economic development programs and commissions. Its operations address financial services, transportation, affordable housing, real estate, managed health care plans and public safety.

In the Governor's historic Strategic Growth Plan to rebuild California, he proposed additional investments in transportation and implementing more public-private partnerships. Mr. Bonner's commitment to public service and his background in both state government and the private sector will bring great resources to BT&H.

Mr. Bonner has served as a partner in the law firm Epstein Becker & Green since 2002, specializing in government contracts, health care law and represented domestic and foreign technology and services firms in state and local procurement matters. From 1999 to 2002, he was of counsel to the law firm Hogan & Hartson.

Prior to going into private practice, Mr. Bonner served in the public sector as commissioner for the California Department of Corporations from 1998 to 1999 and deputy secretary and general counsel for BT&H from 1996 to 1998. At the Department of Corporations, he was responsible for overseeing the regulation of California's corporate securities, financial services and managed care industries. He previously was deputy legal affairs secretary in the Office of Governor Pete Wilson from 1992 to 1996. He serves on the California Science Center Board of Directors and is a past member of the BT&H Expert Review Panel, Los Angeles City Ethics Commission and California Performance Review Commission.

Mr. Bonner is 41 and resides in Los Angeles. He earned a Juris Doctorate degree from Georgetown University Law Center and a Bachelor of Arts degree from the University of Southern California. He became a member of the California State Bar in 1991. Mr. Bonner is a Republican.

JANUARY 31, 2007 GENERAL MEETING HIGHLIGHTS

The New Motor Vehicle Board held its first General meeting of the year on January 31, 2007, in Los Angeles. At that meeting, the members considered one case management matter as well as several administrative matters.

McMahan's RV

The Public and Dealer Members considered Administrative Law Judge (ALJ) Skrocki's "Findings after Remand: Proposed Order" in *Mega RV Corp., dba McMahan's RV v. Western Recreational Vehicles, Inc.*, Protest No. PR-1983-05. The Public and Dealer Members unanimously adopted the ALJ's Proposed Order which dismissed the protest without prejudice.

Administrative Matters

The meeting started off with the election of officers. Alan J. Skobin was unanimously elected to serve as the Board's President. Mr. Skobin previously served on the Board from 1994 to 1997, and during that tenure served as Board President in 1996. He recently served two terms as the Board's Vice President. Mr. Skobin is Vice President and General Counsel, as well as a Director for Galpin Motors, Inc., in North Hills, California. He also holds

See January 31 General Meeting, page 4

January 31 General Meeting, cont'd from page 3

similar positions with Galpin Jaguar, Honda, Lincoln Mercury, Mazda, Volvo and Aston Martin dealerships, as well as Saturn of the Valley.

Robert T. (Tom) Flesh was unanimously elected to serve as the Board's Vice President. Mr. Flesh was reappointed by Governor Schwarzenegger in 2005, and previously served as Board President in 2000 and 2001. Mr. Flesh is President of Safety Investment Company and Community Asset Management, multifaceted national real estate acquisition, management, and development companies.

The Board unanimously approved the presentation of Resolutions to Haig Papaian, former Public Board Member, and Andy Robles, former Dealer Board Member. These resolutions are scheduled for presentation at the June 6, 2007, General Meeting in Southern California.

A number of staff reports were given on a variety of topics. Included were a report on the Consumer Mediation Program, the adoption of the updated *Guide to the New Motor Vehicle Board and Informational Guide for Manufacturers and Distributors*, 10 out-of-state trips for fiscal year 2007-2008, and the modified policy concerning Dealer Member participation in Article 5 recreational vehicle protests.

The new policies that were approved in 2006 are summarized as follows:

- The Board appointed Diana Woodward Hagle as a new Administrative Law Judge. Polly Riggensbach, Staff Counsel, was appointed a Mandatory Settlement Conference Administrative Law Judge;

- Administrative Law Judges Hagle and Taylor were added to the Merits and MSC assignment logs. Judge Wong was added to the MSC assignment log, and upon completion of her training Judge Riggensbach will also be added;

- The Board staff will prepare only one version of proposed decisions, rulings, and orders that contains citations to the record;

- The legal staff can accept, subject to stipulation of the parties, the offer to use litigants' conference rooms or offices for purposes of conducting a Mandatory Settlement Conference so long as all of the requirements of Section 18944.2 of Title 2 of the California Code of Regulations are met;

- All fees for document requests that total \$10.00 or less (less than 40 pages and less than 15 minutes of actual labor) will be waived by the Board, subject to

review and approval by the Executive Director;

- There will be no charge for document requests sent via facsimile. However, if an individual required an excessive number of documents be sent via fax, then he or she could be referred to an attorney copying service.

- At least annually, the Solon C. Soteras Employee Recognition Award will be given out and based on merit.

Howard Weinberg, General Counsel, reported on the Department of Consumer Affairs, Arbitration Certification Program's (ACP) request that the Board not collect specified fees. The Board unanimously adopted the ACP's proposal that the Board exercise its discretion to collect or not collect fees when the amount to be collected is nominal, and to provide ACP with an accounting of the manufacturers and the amounts owed but not collected as a result of the Board exercising its discretion.

Mr. Brennan provided the members with a Report on Administrative Matters and highlighted the upcoming Industry Roundtable. Additionally, he reported that the staff was investigating the feasibility of providing Board meeting materials electronically, and also whether the DMV could issue a probationary occupational license for failure of a licensee to timely pay the Board fees. These items would be addressed at upcoming meetings.

The Board selected June 6, 2007, in Southern California as a meeting date and will set the remaining schedule at the March 28, 2007, General Meeting.

NAMVBC 31TH ANNUAL BREAKFAST MEETING

Las Vegas, Nevada was the city of choice for the National Association of Motor Vehicle Boards and Commissions ("NAMVBC") Annual Workshop and Breakfast Meeting held February 3 through February 5, 2007. The workshop is an excellent forum for the exchange of information and ideas of common interest to the various motor vehicle board and commission members who attended.

The February 4, 2007, workshop and breakfast meeting was called to order at 9:00 a.m., followed by keynote speakers Billy Donley and David Jarrett of Baker & Hostetler. They presented an interesting discussion on the subject of the comparison of the manufacturer/dealer laws in the United States to those of Europe. David W. Regan, National Association of Automobile Dealers Association ("NADA") Vice President of Legislative

NAMVBC, cont'd from page 4

Affairs spoke on NADA's efforts to require Total Loss Disclosure, which addresses the issue of wrecked, flooded, or stolen vehicles that are sold with clean titles to unsuspecting consumers.

Following the morning speaker, William G. Brennan, New Motor Vehicle Board (NMVB) Executive Director and treasurer of the NAMVBC, gave the yearly treasurer's report. Committee reports and assignments were discussed along with a roundtable discussion regarding current issues.

The February 5, 2007, breakfast meeting featured keynote speaker Thomas B. Hudson, senior partner with Hudson Cook, LLP, and editor-in-chief of the monthly publication, CARLAW®. Mr. Hudson also publishes a monthly legal newsletter, Spot Delivery®, and has written numerous journal and other articles and recently published CARLAW, the book.

The NAMVBC breakfast meeting was held in conjunction with the NADA 2007 Convention, February 3 through February 5, 2007. Keynote speakers for the NADA Convention included Richard Colliver, Honda and Acura Automobile divisions, Sugar Ray Leonard, former boxing champion, Fire Chief Richard Piccioto, the highest ranking firefighter to escape the North Tower on 9/11, and Jack Welch, former Chairman and CEO of General Electric Company. Industry workshops kept NADA attendees busy, as did product displays and new model presentations in the Exhibition Halls. The NMVB was represented at both functions by Executive Director William G. Brennan, Board Members Glenn Stevens, Robert T. (Tom) Flesh, Alan Skobin, Ryan Brooks, Staff Manager, Dawn Kindel and Mary Garcia, Branch Chief, Occupational Licensing from the Department of Motor Vehicles.

MEDIATION SPOTLIGHTS

On January 29, 2007, Consumer Mediation Representative, Eugene Ohta, received a complaint from a consumer regarding his 2006 Mercedes-Benz. The consumer purchased the vehicle from Downtown LA Motors (DTLA) in February of 2006.

The consumer claimed that the vehicle had a faulty transmission, electrical problems and the air conditioning unit already had a module replaced. He also stated that when driving 70 miles an hour, a red light came on saying the hood was open. The consumer requested that the vehicle be replaced.

Mr. Ohta sent a letter to both the dealership and the manufacturer on January 29, 2007, requesting

assistance in resolving this matter. By letter dated February 20, 2007, from Mercedes-Benz USA, LLC (MBUSA), Mr. Ohta was told that they had reviewed the matter and that the vehicle had been repaired and returned to the consumer. They also stated that they were not in a position to repurchase the vehicle.

However, on February 23, 2007, DTLA faxed a letter to Mr. Ohta stating that they supplied MBUSA with the repair history of the vehicle for their review and that they made an offer to the consumer to repurchase the vehicle for \$99,000.00. On March 2, 2007, the consumer accepted the offer.

The consumer was very satisfied with the outcome of his case and complimented Mr. Ohta on his professionalism in handling the matter.

On February 13, 2007, Mediator Jackie Grassinger received a request for mediation from a consumer who was having a problem with his Toyota Highlander. The Northern California consumer had taken his Highlander to Lake Tahoe in early February and when he used the windshield washer fluid to clear the windshield, the fluid froze on the windshield. The wiper blades scraped across the frozen cleaner creating scratches on the glass. The consumer received an estimate of nearly \$870 for a replacement windshield.

The consumer contacted the dealership that serviced his vehicle and filled the fluids, and was informed that the Toyota Auto Care plan (TAC) that he had purchased for \$895 when he bought the vehicle, doesn't include windshield fluid. As a result, the reservoir was simply filled with water. That's when he contacted the Board for help.

Ms. Grassinger sent out letters of inquiry to the dealership where the vehicle was purchased, as well as the dealership that serviced the vehicle, Dublin Toyota. Dublin Toyota promptly responded and pointed out that although they had followed the TAC guidelines, they wanted to provide some goodwill assistance to the consumer, and offered to pay for 1/3 of the replacement windshield. The selling dealership also responded, but denied any assistance to the consumer for the replacement price. They did offer to cancel the TAC for a full refund as a gesture of goodwill. Dublin Toyota was then informed that the selling dealership wouldn't share in the replacement cost. At that time, Dublin agreed to pay 1/2 of the cost. This information was relayed to the consumer, who promptly accepted the offer and had the windshield replaced by Dublin Toyota. The consumer thanked the Board and Dublin Toyota for resolving this issue.

WARD'S PROFILES DAVID WILSON'S EMPLOYEES

The March issue of Ward's Magazine featured an article on David Wilson's Endowment Fund, an annual charity donation by his employees. Instead of giving David a birthday-Christmas gift each year, the employees came up with a way to give him, and hundreds of other people, a gift that would last long past the holidays.

The first year, 130 employees of Toyota of Orange donated \$10,000 to the fund and the proceeds went to Orangewood Children's Foundation. Since then, the dealership now employs 2,000 employees and the fund has grown to more than \$500,000. Current recipients include Orangewood, Olivecrest, Laker's Youth Foundation, United Cerebral Palsy and the American Cancer Society.

The Board is very proud of this great boss and great Board Member!

MARCH 28, 2007

GENERAL MEETING HIGHLIGHTS

The Board held its March 28, 2007, General Meeting in Sacramento. Sunne Wright McPeak, former Secretary of the Business, Transportation & Housing Agency was presented with a resolution for her contributions to the New Motor Vehicle Board, to the motor vehicle industry and to the people of the State of California.



Robert Branzuela, Glenn Stevens, Alan Skobin,
Sunne McPeak, Tom Flesh, Ryan Brooks, Bill Brennan

Mary Garcia, Branch Chief, Occupational Licensing, for the Department of Motor Vehicles, presented the members and staff with an overview of the OL 124 Form (Certificate of Proposed Franchise). Ms. Garcia indicated that the

OL 124 Form serves to comply with DMV's licensing requirements and the notice requirements under Vehicle Code sections 3062 and 3072. Every document DMV accepts must contain the correct name and address, or it is rejected. Ms. Garcia indicated that most OL 124 Forms do not require the manufacturer to "clear the market." For example, a buy-sell does not require the market to be cleared because it is not establishing an additional franchise it is just changing the ownership. OL 124 Forms must be completed by the manufacturer or distributor but need to be presented by the dealer to their local DMV inspector.

A number of staff reports were given on a variety of topics. Bill Brennan, Executive Director, reviewed the Board's mission and vision statements with the members. Dawn Kindel, Staff Manager, reported on staff training, and the 2nd quarter of fiscal year 2006-2007 budget.

General Counsel Howard Weinberg provided an update concerning statutory changes to the laws that govern the Board's operations and its quasi-judicial functions. Mr. Weinberg also described the DMV's authority and practice for issuing probationary occupational licenses to manufacturers and distributors that fail to pay or to timely pay the Department of Consumer Affairs Arbitration Certification Program Fees or the Annual Board Fee. Mr. Weinberg indicated that Vehicle Code § 11718 authorizes probationary licenses under certain circumstances and the authority for disciplinary actions is found in 13 CCR § 440.04. Lastly, he provided the members with a revised *Administrative Law Judges Benchbook* that was unanimously adopted. The Benchbook is provided to the Board administrative law judges for purposes of training.

The members unanimously adopted a draft stipulation to permit dealer Board members that also have an interest in an RV dealership to participate, discuss, and vote on Article 5 RV Protests.

Robin Parker, Senior Staff Counsel, addressed legislation of interest to the Board and stated there was no pending legislation that directly impacts the Board's operations at this time.

Bill Brennan, Executive Director, highlighted the success of the 6th Annual Industry Roundtable held the previous day. Additionally, he reported that the staff was planning an Attorney Roundtable to assist attorneys that practice before the Board or who would like to. If you would like information concerning the upcoming Attorney

March 28 General Meeting, cont'd from page 6

Roundtable tentatively planned for August 15, 2007, in Sacramento, please contact Robin Parker at (916) 445-1888 or rparker@nmvb.ca.gov.

Polly Rigganbach, Staff Counsel, reported on case management. A number of settlement conferences were being set whereas the previous trend was to go to hearing without such a settlement conference. Mr. Stevens requested that hearings be set in *David J. Phillips Buick-Pontiac, Inc., dba David Phillips Buick-Pontiac-Mazda v. General Motors Corporation* [Protest No. PR-1991-06], *Santa Monica Group, Inc., a California corporation, dba Santa Monica Chevrolet Buick v. General Motors Corporation*, Protest No. PR-1982-05, and *South Shore Motors v. Subaru of America, Inc.*, Protest No. PR-1970-05.

FUEL CELL TOUR

On March 28, 2007, Board members and staff toured the California Fuel Cell Partnership in the nearby city of West Sacramento. The Partnership is a collaborative effort of auto manufacturers, energy companies, fuel cell technology companies and government agencies to commercialize the vehicle technology of the 21st century. The tour included an informative presentation that discussed how fuel cells work, sources of hydrogen, hydrogen use and safety, and

support facilities for hydrogen-fueled vehicles. Board members and staff viewed the on-site hydrogen fueling facilities and were also given opportunities to drive fuel cell vehicles of various makes and models.



Glenn Stevens, Ryan Brooks, Alan Skobin, Robert Branzuela

UPCOMING BOARD MEETINGS



General Board Meeting
June 6, 2007
Southern California

(*Board Meeting dates and locations are subject to change.
A meeting agenda with time and location details is mailed 10 days
prior to the meeting and is posted on the Board's website.)

2007 COMMITTEES

EXECUTIVE COMMITTEE

Alan Skobin, President
Tom Flesh, Vice President

ADMINISTRATION COMMITTEE

David C. Lizárraga, Chair
Open, Member

BOARD DEVELOPMENT COMMITTEE

Robert Branzuela, Chair
Ryan L. Brooks, Member

FISCAL COMMITTEE

Ryan Brooks, Chair
Open, Member

GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE

Tom Flesh, Chair
David Wilson, Member

POLICY AND PROCEDURE COMMITTEE

Glenn Stevens, Chair
David Wilson, Member



NEW MOTOR VEHICLE BOARD
1507 21st Street, Suite 330
Sacramento, California 95814